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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,361	01/31/2002	Louis Bigo	CU-2826	2484

7590 12/24/2003
Richard J. Streit
Ladas & Parry
Suite 1200
224 South Michigan Avenue
Chicago, IL 60604

EXAMINER

LOPEZ, FRANK D

ART UNIT	PAPER NUMBER
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3745

DATE MAILED: 12/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/066,361

Applicant(s)

BIGO ET AL.

Examiner

F. Daniel Lopez

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29 is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Amendment

Applicant's arguments filed October 6, 2003, have been fully considered but they are not deemed to be persuasive.

Applicant's arguments with respect to claims 1-28 have been considered but are deemed to be moot in view of the new grounds of rejection. The new grounds of rejection are necessitated by the added limitations that the communication valve and replenishing selector have elements located one in the other (e.g. claim 1) and that the replenishing valve has a valve body (e.g. claim 17).

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Specification

The disclosure is objected to because of the following informalities: the brief description of the drawings must list fig 7 and 8. Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 1-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 10 line 1 "the slide" has no antecedent basis. In claim 10 line 3 "said communication means" should be --said communicating valve--, to agree with claim 17 line 8.

In claim 1 line 13 and 17 line 13 "said inlet" should be --said inlet means--, to agree with line 10-11.

Claims not specifically mentioned are indefinite, since they depend from one of the above claims.

Claim Rejections - 35 USC § 102

Claims 1-4, 15, 17, 18 and 27 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Flieter.

Claim Rejections - 35 USC § 103

Claims 8 and 10 are rejected under 35 U.S.C. § 103 as being unpatentable over Flieter in view of Weisenbach. Flieter discloses a closed circuit comprising a hydraulic motor connected to a hydraulic pump by first and second main pipes (20, 21), and a replenishing device, including a replenishing selector (29, 30) and a communication valve (38) united in the same replenishing valve unit, having an inlet means (68) connected to one of the main pipes, which is at a lower pressure, wherein the communication valve allows the inlet means to communicate with an outlet (42), when pressure at the inlet reaches a given pressure threshold; and the outlet communicates with a reservoir; wherein a casing the motor has a recess with two main ducts connected to respective ones of the two main pipes, and a removal duct connected to an internal space of the casing; wherein the replenishing valve unit has a valve body (see fig 2) placed in the recess such that two inlet ports and outlet port of the valve body communicate with the two main ducts and removal duct of the recess; wherein the valve unit includes a slide (27) cooperating with a piston (38) mounted for relative movement, to open and close off the communication valve; but does not disclose that the device includes a sealing means cooperating with the valve body and recess to prevent communication between the main ducts and the removal duct inside the recess, outside the valves.

Official notice is taken, for a valve device in a casing, including a valve mechanism in a valve body having ports interacting with ducts of the casing; that the device includes a sealing means cooperating with the valve body and recess to prevent communication between the ducts inside the recess, except through the valve mechanism. It would have been obvious at the time the invention was made to one having ordinary skill in the art to include a sealing means cooperating with the valve body and recess of Flieter, to prevent communication between the ducts inside the recess, except through the valve mechanism.

Conclusion

Claim 29 is allowable.

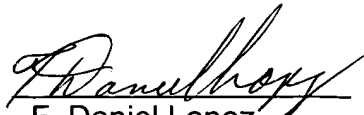
Claims 5-7, 9, 11-14, 16, 19-26 and 28 are would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is (703) 308-0008. The examiner can normally be reached on Monday-Thursday from 6:30 AM -4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on (703) 308-1044. The fax number for this group is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861.


F. Daniel Lopez
Primary Examiner
Art Unit 3745
December 23, 2003